



FREEDOM ON THE NET 2018

Myanmar

36
/100

NOT FREE

A. <u>Obstacles to Access</u>	10 /25
B. <u>Limits on Content</u>	16 /35
C. <u>Violations of User Rights</u>	10 /40

LAST YEAR'S SCORE & STATUS

37 /100 Not Free

Scores are based on a scale of 0 (least free) to 100 (most free). See the [research methodology](#) and [report acknowledgements](#).



Key Developments, June 1, 2017 - May 31, 2018

- Content available online has become less diverse, as the government and military continue to further entrench the state narrative about the Rohingya crisis (see Media, Diversity, and Content Manipulation).
- Online activists and journalists reporting in Rakhine State experienced increasing intimidation and violence, with an attempted murder against one journalist and another fleeing the country out of safety concerns (see Intimidation and Violence).
- As Facebook has ramped up its efforts to remove content and accounts relating to the Rohingya crisis, the platform’s blocking and filtering process has been opaque with limited, if any, avenue for appeal (see Blocking and Filtering and Content Removal) .
- The government established the “Social Media Monitoring Team,” presumably to target pro-Rohingya activists, international civil society organizations, and foreign media (see Surveillance, Privacy, and Anonymity).
- Internet penetration rose, and three new telecom operators began offering services in 2018: Mytel, Amara Communications, and Global Technology Group (see ICT Market and Availability and Ease of Access).

Introduction

Internet freedom declined in 2018 under the governing National League for Democracy (NLD), chaired by Nobel Peace Prize laureate Aung San Suu Kyi. The government and military continue to attempt to shape and control public debate on the Rohingya Muslim minority and the massive exodus of refugees fleeing from what the former UN High Commissioner for Human Rights called “a textbook example of ethnic cleansing.” ¹

Atrocities in Myanmar were thrust to the international stage during the reporting

period, as Facebook came under pressure for failing to combat disinformation on its platform. In September 2018, a UN fact-finding mission report called for prosecuting perpetrators of genocide, crimes against humanity, and war crimes via the International Criminal Court (ICC) or a new ad hoc criminal tribunal. **2** That same report highlighted Facebook’s role in the atrocities, claiming that it has been a “useful instrument” for spreading hate and inciting violence, and noted that the platform serves as the internet for many in the country. Separate reports have provided evidence of the government’s and military’s systematic campaigns to spread disinformation online in order to popularize the state’s narrative. **3** In attempts to limit the proliferation of disinformation and inflammatory content, Facebook’s opaque blocking and filtering processes have had a disproportionate effect on Myanmar internet users.

Meanwhile, online activists and journalists working in Rakhine State or reporting on the Rohingya are at an increased risk of violence, intimidation, and prosecution. In one of the most notable cases during the reporting period, two Reuters journalists investigating a massacre of Rohingya men and boys were arrested in December 2017 and later sentenced to seven years in prison in August 2018, following the reporting period. **4**

In 2018, the government established an online surveillance mechanism without any safeguards and adopted yet another law with criminal defamation provisions, in addition to the Telecommunications Law which continues to be used to imprison users. The government has been unwilling to conduct open consultations with civil society before amending or adopting laws and policies.

In a positive development, the internet is now more accessible in Myanmar. The government issued telecommunications licenses, resulting in more mobile phone operators, new 4G services, and a host of new fixed-line and mobile broadband services in major cities and smaller towns, increasing competition and driving down some prices for users.

A. Obstacles to Access

Internet access is improving in Myanmar, as more users go online via smart phones connected to newly available and fast 4G services, despite access being comparatively unaffordable. The success of two foreign-owned mobile phone operators has placed pressure on the state's monopoly, and the state has responded by gifting a mobile phone license to a military-owned conglomerate.

Availability and Ease of Access

Access to the internet continued to improve during the reporting period. The number of internet users passed one third of the population, growing by 29 percent or four million people since 2017. **5** The growth in the number of internet users increased in speed since 2016, although the overall figure remains lower than the average for the Asia Pacific region. **6**

The available speed and quality of service increased due to the launch of 4G services in June 2017, **7** alongside a significant drop in price for fixed-line broadband connections in some areas. **8** However, internet bandwidth per user remains significantly lower than the average across Asia Pacific. **9** Users in most towns still have poorer quality connections than those in major cities, and worse still in rural villages. Chronic power outages, service interruptions, and infrastructure issues continue to impede efficient internet usage. **10**

Private fixed-line internet connections remain rare. Only one in 1,667 people has a fixed broadband line, compared to one in 10 on average in Asia Pacific. **11** Prices for fixed broadband lines have decreased significantly, though there remains a regional variation.

Although fixed-line connections have remained static, mobile connections have continued to grow. The number of mobile connections increased by three million or 7 percent over the past year, **12** reaching over 50 million in Myanmar. **13** Despite this growth, the number of mobile connections compared to the population size is still lower than in neighboring countries. **14** All of these connections are owned by just 50 percent of the population, who tend to have multiple SIM cards. **15** 80 percent of mobile connections are smart phones, which is a higher level of smart phone penetration than in neighboring countries. **16** The price of mobile internet

connections has remained comparatively expensive, as Myanmar is in the top 25 percent most costly countries in Asia Pacific. **17** To connect to mobile internet, the poorest 40 percent of the population would need to spend 18 percent of their monthly income for 1GB of data, and the poorest 20 percent would spend 7.5 percent of their monthly income on 500MB. **18**

Individual users now consume a monthly average of 1.2GB in data each. **19** The share of web traffic has continued to shift from computers to mobile phones. As of January 2018, mobile phones consumed 73 percent of data in Myanmar, **20** up 4 percent from the previous year, while laptops and desktops were down by 7 percent to 26 percent. **21** Most phones use Android software. **22** The number of active social media users has risen over the past year by 29 percent, or four million people, up to 18 million, 16 million of whom principally use mobile phones. **23** Viber is the most common platform with a population penetration rate of 35 percent, followed by Facebook with 27 percent. **24**

Internet use remains principally for communication in Myanmar, with very few users using it so far for other reasons. **25** This has begun to change in 2018 as new financial companies offer mobile-phone based services to compete with traditional banks. **26**

National figures on internet access hide differences between disaggregated and marginalized groups. Urban users who now have access to 4G consume almost five times more data on average each month than the national average for all users. **27** The number of households particularly in rural areas that have access to a computer or to the internet remains small. **28** Women are still significantly less likely than men to own a mobile phone **29** and to have a Facebook profile. **30** The percentage of those aged 15-24 who use the internet is still low at 20-40 percent (similar to Laos and Cambodia), compared to 60-80 percent for India and Indonesia, and 80-100 percent for Thailand, Malaysia, Vietnam, and the Philippines. **31**

Restrictions on Connectivity

The government has continued to refrain from restricting access, although it retains the power and control to do so. The Ministry of Transportation and Communications controls much of the telecommunications infrastructure via the state-owned

Myanmar Post Telecommunication (MPT), though private providers are gradually diversifying ownership of the internet backbone. Myanmar has seven gateways and is expected to develop more soon to support its 70 percent annual growth in bandwidth demand. **32** New private gateways are making the international connection more resilient.

Myanmar's first private undersea internet cable, the Myanmar-Malaysia-Thailand-International Connection (MYTHIC), was installed by Campana Group, a company based in Singapore and jointly owned by Myanmar and Thailand. It began selling for wholesale to telecommunications operators in December 2017. **33** Campana Group plans to build a second undersea cable, called SIGMAR, with enough bandwidth to serve for at least 10 years. **34** Myanmar's government has stated its intention to launch a second satellite, MyanmarSat-2, in 2019 to aid telecommunications. **35** The Ministry of Transportation and Communications has also announced its intention to build a data center in Naypyidaw, funded by the Republic of Korea's Economic Development Cooperation Fund, to serve as a secure base for its planned e-government services. **36**

Infrastructure development continues to be a challenge with flooding, poor electricity, bureaucratic processes, and corruption. Meanwhile, current infrastructure has been damaged by a range of issues such as rodents, car accidents, and construction. **37** Qatar's Ooredoo and the state-owned MPT have sought to mitigate these risks to infrastructure. Ooredoo gave tower construction company Edotco control over 1,250 of its towers and its energy assets, while MPT partnered with Japan's KDDI Corp and trading house Sumitomo Corp. **38**

Telecommunications operators continue to raise concerns over laws restricting their ability to set up new towers. **39** Local government has stressed to telecommunications operators the importance of obtaining the necessary permits to lay fiber-optic cables, erect towers, and install Wi-Fi devices. **40** Meanwhile, reports of telecommunications operators flouting private property are common. **41**

The Telecommunications Law has no specific regulations relating to net neutrality, zero-rating data transmissions by apps or telecommunications operators, open internet policy, or bandwidth throttling. **42** During the reporting period, there were

no public reports of restrictions to connectivity or social media and communication platforms. Telecommunications operators have reported receiving no requests for network shutdowns during the period under review. **43**

ICT Market

Myanmar has seen growth in market diversity since the last reporting period. As of December 2017, 137 telecoms licenses had been awarded, including to three telecommunications operators. **44** Mytel and Amara Communications, two domestically-owned telecommunications services, started operating in 2018, as did a third, Global Technology Group.

Mytel was granted a telecommunications license in January 2017. The company is jointly owned by the Vietnamese-military controlled company Viettel, a consortium of local firms, and Star High Public Company, which is owned by the military's Myanmar Economic Corporation (MEC). **45** MEC was sanctioned by the US Treasury between 2008 and 2016 for its role in supporting human rights violations committed by Myanmar's military. **46** Mytel operates on the telecommunication infrastructure owned by MECTel. MEC also owns MECTel. **47** Some activists have pushed to boycott Mytel due to its connections with the military and human rights violations. **48**

The addition of Mytel and the comparative scale of its investment could reassert the state's dominance over Myanmar's telecommunications market. **49** Mytel launched its 4G-only service in February, **50** started selling SIM cards in March, **51** and had reportedly sold over 100,000 by May 2018. **52** Two foreign operators, Telenor and Ooredoo, recently announced that they had increased their market shares to 37 percent and 14 percent respectively, together overtaking the prior dominance of the state-owned MPT, which shrunk to a 48 percent market share. **53**

Amara Communications, owned by a large domestic conglomerate, launched in May 2018 and provides a data-only service using MiFi boxes, including in Yangon where it already has over 300 towers. **54** A third company, Global Technology Group planned to provide wireless broadband to 30 cities beginning in April 2018, but eventually launched on May 31. **55**

Despite more operators entering the market, there is not an increased demand for fixed-line connections. The cost of setting up these connections remains comparatively high, **56** due to a lack of a legal framework enabling telecommunications operators to recover contractual fees if a user defaults on payments, pressuring operators to charge upfront. However, the very high costs of fixed-line connections have decreased slightly due to competition with 4G and a dearth of demand from customers. For example, one new ISP launched a 2MBps service in Yangon in May 2017 with an initial set-up fee of US\$250 and monthly charges of \$95, but by September 2017 the monthly charges were reduced to \$36 with no set-up fee. **57** These costs, while reduced, keep personal fixed-line connections far out of reach for the majority.

In recognition of the disparity in access to telecommunications nationwide, the government announced the development of a Universal Service Fund to invest in telecommunications services for areas and people that are otherwise underserved, with the eventual aim of reaching 99 percent of the population. **58** In January 2018, the Post and Telecommunications Department published a draft strategy for public consultation, **59** which identified that the Fund will be supported by a new two percent telecoms tax. **60** Civil society organizations conducted outreach campaigns to attract public comments for the consultation and a final version is awaited. **61**

The Digital Economy Development Committee (DEDC) was launched to support and develop economic policies that promote a digital economy. **62** The DEDC held their inaugural meeting in July 2017 and started drafting a Digital Economy Development Master Plan in 2018. **63** Vice President Henry Van Thio, who oversees the committee, stated that one of the DEDC's priorities would be addressing the "digital divide" between urban and rural populations. **64**

Regulatory Bodies

Myanmar's regulatory bodies remain fully under the control of the government. The Ministry of Transport and Communications' Posts and Telecommunications Department (PTD) is responsible for regulating telecommunications in Myanmar. Under previous governments, PTD was the regulator and a monopoly operator for all telecommunications. These roles have now been separated, with PTD acting as the

regulator and Myanmar Posts and Telecommunications (MPT) acting as the state-owned operator. PTD's responsibilities include issuing and renewing telecommunications licenses, regulating the frequency spectrum, addressing consumer protection, inspecting and supervising telecommunications operators, and instituting any administrative actions against operators. **65** However, both PTD and MPT are state-owned institutions without proper safeguards for regulatory or operational independence.

Article 86 of the Telecommunication Law outlines the Myanmar Communications Regulatory Commission (MCRC), although it has yet to be established. **66** MCRC would take over regulatory functions and institute a mechanism to adjudicate any administrative issues in the telecommunications sector.

Other state institutions tasked with ICT development and management have remained largely inactive. **67** The Myanmar Computer Federation, formed under the 1996 Computer Science Development Law and comprised of industry professionals, is the designated focal point for coordination with the ITU. It has been reported that the Myanmar Press Council, mandated under the News Media Law (2014) to receive complaints regarding the media's online content, has been largely ignored by the courts. **68**

The Pricing and Tariff Regulatory Framework, an initial set of rules for mobile telecommunications operators, came into force in June 2017 and included new floor pricing, and a ban on giving free SIM cards or supplying telecom services at below cost, among other rules. The rule on floor pricing includes a minimum charge for data, calls, SMS, and other services. Some stakeholders believe that the floor pricing, which set a minimum data charge that was more expensive than some mobile telecommunications operators, notably Ooredoo, were charging at the time, was being established by the government to give market advantage to the military-owned Mytel, which was due to be launched several months later. **69** PTD developed the first Pricing and Tariff Regulatory Framework without sufficient costing data and therefore gave it a short one-year lifespan. PTD is reviewing new data and redrafting the Framework for 2018, **70** and is taking public submissions with the intention to complete it by late 2018. **71**

B. Limits on Content

While the government continues to refrain from applying direct limitations on content, self-censorship on a range of subjects from the military, to corruption, to the Rohingya, remains high. At the same time, social media companies have responded to pressure and increasingly removed users and content with limited transparency and independent appeals process. Users are free to access the internet, but many of the major online media pages lack diversity in ownership and content. Meanwhile, the government and military actively promote their own narratives online and reject alternatives as “fake news.”

Blocking and Filtering

The government has continued to refrain from blocking or filtering content. In August 2012, the government lifted all prior-censorship of traditional and electronic media, with the exception of films, dissolving the Press Scrutiny and Registration Division shortly after. The Telecommunications Law includes broad provisions giving the government the power to temporarily block and filter content, on the vague grounds of “benefit of the people,” and without any proper safeguards. **72** The government does not actively publish blocking and filtering lists or procedural information on how any such decisions are made, when, and by who.

Despite the existence of a blocking and filtering framework, one operator, Telenor, reported receiving no requests from the government during the reporting period. **73** Network measurements have similarly not detected software used for censorship, surveillance, or manipulation of traffic inside Myanmar since 2012. **74** Political content appears to be almost universally available, and even content such as pornography was not blocked as of mid-2018. **75**

During the reporting period, UN mechanisms and international civil society increased pressure on Facebook to address rampant intolerance, intimidation, and incitement online. **76** As a result, Facebook’s moderators and the use of its automated blocking and filtering mechanisms increased in Myanmar. **77** However, despite Facebook’s action, civil society continued to raise concerns that Facebook’s systems were slow,

insufficiently intelligent, and lacked contextual awareness and expertise in Myanmar.

78 Since a portion of the population in practice uses Facebook as the internet, the platform's blocking and filtering processes have had a disproportionate effect in the country compared to other contexts. **79**

While Facebook discloses only minimal information about its internal systems, removals appear to primarily be through automated blocking and filtering mechanisms backed up by some human action. **80** This process is opaque and has disproportionately impacted legitimate content with limited, if any, avenue for appeal. The platform's "community standards" are broad and vague, and the decision-making process is unclear, as is who is involved in the content moderation. These processes raise concerns, as Facebook has removed a range of pro-Rohingya, anti-Rohingya, **81** and pro-military accounts and content, including those reporting on and documenting human rights violations (see Content Removal).

Content Removal

Pressure on users to remove content continues to originate from the government, military, and other groups. The Telecommunications Law does not include provisions to force the removal of content or provide for intermediary liability, although some articles are vague and could feasibly be argued to cover content removal. **82**

Pressure to remove content instead comes from the use or threat of using criminal provisions, such as Article 66(d) of the Telecommunications Law.

Neither Google nor Twitter reported any requests for content removal, **83** although Facebook reported receiving one request from July to December 2017. **84** Facebook also stated that they have received very little proactive communication from the government on any subject. **85** There are no public reports on government or court requests for content removal from domestic sources, such as locally-stored websites, or serious demands for local intermediary liability.

While not official requests, content removal suggestions have come from members of the government. For example, in June 2018, following the reporting period, Minister for Information U Pe Myint suggested to Facebook that it control content that uses vulgar language, hate speech, and incitement. **86**

In September 2017, it was discovered that Facebook posts documenting the military's crackdown against the Rohingya in August were hidden on the official page of the office of the commander-in-chief Min Aung Hlaing. **87** The military claimed that they were unaware of the issue, although Facebook confirmed that page administrators have the power to hide content. The posts were accessible when using key search terms, implying that they were not deleted outright.

Activists, particularly women and members of religious minorities, reported receiving violent abuse or barely concealed threats to take down content. **88** Pressure to remove content is also prevalent in coordinated reporting campaigns in which users misuse Facebook's mechanism for reporting content that violates the platform's Community Standards **89** in order to disable rival pages or temporarily limit users' ability to post or message. **90** Activists have also argued that there is a targeted effort of progovernment and military users to report content of pro-Rohingya and human rights groups.

Journalists and activists documenting violations against the Rohingya have had their Facebook content restricted. Facebook's designation of the Arakan Rohingya Salvation Army (ARSA) insurgent group as a "dangerous organization," and the resulting ban on all Facebook content **91** by or in praise of ARSA, has captured a much wider range of content relating to the Rohingya, including commentary on and documentation of human rights violations. **92** Journalists and activists documenting Facebook's removals alleged that Facebook systems were confusing support for the Rohingya with support for ARSA. **93** Additionally, a number of pro-Rohingya activists have reported having their accounts suspended. **94** In response, Facebook stated that some of the posts were incorrectly deleted and others were removed for containing images of graphic violence. **95** YouTube has also been accused of deleting legitimate content documenting human rights violations against the Rohingya. **96**

Anti-Rohingya pages removed from Facebook include the well-known and influential ultranationalist monk Ashin Wirathu, which was deleted for "promoting hatred and violence" (see Media, Diversity, and Content Manipulation). **97** Facebook announced at the end of the reporting period that it would also remove any accounts or content by or in praise of the Buddhist nationalist group Ma Ba Tha. **98**

In August 2018, following the coverage period, Facebook removed 18 Facebook accounts, 52 Facebook pages, and one Instagram account. The pages and accounts had nearly 12 million followers in total. **99** This included commander-in-chief Senior General Min Aung Hlaing, the military's Myawaddy television network, and other military members. **100** Min Aung Hlaing moved to the Russian platform VKontakte, which later suspended his account in September 2018. **101**

Media, Diversity, and Content Manipulation

The dominance of certain groups and ideas, and the self-censorship of others, continues to be an issue of concern in Myanmar. The government and military have sought to control information domestically, and manipulated progovernment content has become pervasive online. Journalists, online personalities, and ordinary users face a range of pressures to agree with government narratives on matters relating to the military, big business, armed conflict, religion, and certain “sensitive” social and religious issues. **102** Self-censorship online remains widespread, including among journalists **103** and women. **104** Developed under previous military governments, the practice of using pseudonyms, enabling people to speak out with less fear of repercussion, remains common online despite Facebook and other social media platforms banning the practice. **105**

Self-censorship is particularly common in relation to the Rohingya. **106** Pro-Rohingya activists have had to rely on social media and the international media to distribute information about violence and discrimination in Rakhine State partly due to very few domestic media outlets willing to take the security and financial risks of violence and boycotts. **107** The conviction of two Reuters journalists, Wa Lone and Kyaw Soe Oo, on politically motivated charges is a threat to other journalists and human rights defenders working on related issues (see Prosecutions and Detentions for Online Activities). The fact that they work for Reuters, one of the world's largest media companies, rather than a small domestic media outlet, has served to underline the seriousness of the threat. Others reporting on the atrocities perpetrated against the Rohingya have preferred to stay anonymous, fearing that the government is closely monitoring them. **108**

The government and the military continue to dominate the means of public

discourse. Despite years of affirming their desire for media freedom, once in power the NLD resolved to retain state-run media **109** in order to control publicly available information. **110** As a result, the government and the military still control all of the broadcasting sector and a significant part of print media, including all of their online platforms, either directly via the Ministry of Information or via joint ventures with private companies. **111** Hopes that the NLD would increase the editorial independence of state-controlled media and joint venture media outlets have evaporated.

There is also censorship around the use of the word “Rohingya,” **112** as some have opted to use terms such as “Muslims” to receive less backlash or, particularly if the outlet is progovernment, the discriminatory term “Bengalis,” in an attempt to link the Rohingya to Bangladesh. **113** The government ordered in August 2017 that all media use the term “terrorist” instead of insurgent or militant. In September 2017, BBC announced it would end its broadcasting partnership with MNTV after the Myanmar channel repeatedly pulled BBC programs for using “government restricted words,” assumed to be the word “Rohingya.” **114** In June 2018, following the reporting period, Radio Free Asia (RFA) cancelled its partnership with the Democratic Voice of Burma (DVB) after the government repeatedly attempted to censor the word “Rohingya” on state television. **115** RFA, however, reported that it would still cover Myanmar on social media. **116**

During the reporting period, the most visited websites in Myanmar were Google, YouTube, and Facebook. **117** The most popular Facebook pages were all run by media outlets, some of which were foreign and none of which were state-controlled. **118** Perhaps in reflection of the polarization of Myanmar’s political context, the two largest Facebook society pages were run by the military and the NLD. **119** The Facebook pages attracting the fastest growing audiences were a mixture of media outlets and mobile phone service providers. **120**

Both the government and the military have invested in spreading their own narrative and manipulating information via Facebook. **121** The military publishes on its “True News Information Team” page **122** and shared content on the commander-in-chief’s page before it was banned (see Content Removal), **123** while the government posts

on the pages of the Ministry of Information, **124** the State Counsellor’s Office, **125** and the Information Committee. **126** The latter was set up to provide the public with “unbiased” information, compared to “fake” reports from international media, on the Rohingya and the conflict. It was originally called the “State Counsellor’s Information Committee,” before being renamed reportedly either to demonstrate that the government consists of more than just Aung San Suu Kyi, **127** or to distance Aung San Suu Kyi from some of the page’s more infamous pronouncements. **128** Often posts include disinformation around specific human rights violations and includes graphic imagery. For example, in March 2018, in response to criticism from the British government, the Office of the Commander-in-Chief posted on its Facebook page images of dismembered children alleging that they were killed by the Rohingya. **129**

In October 2018, following the reporting period, the *New York Times* reported evidence of the military’s systematic campaign on Facebook beginning about half a decade ago. **130** Nearly 700 people were reportedly involved, creating and managing fake accounts and pages, often for entertainment purposes and celebrities, which were then used to share false, misleading, and inciting content, largely relating to Muslims and the Rohingya. Troll accounts allegedly then helped spread the content to reach more users domestically.

Hardliners in the country have also spread derogatory and violent statements about the Rohingya on Facebook. For example, some have called them “snakes” and “worse than dogs” in videos. **131** Ultranationalist monk Wirathu used Facebook regularly to spread false information and narratives before his page was removed. **132** His posts and videos, shared to thousands of followers, have stoked real-world violence according to critics. **133** He has compared Muslims to mad dogs and shared images of corpses with text claiming they were Buddhists murdered by Muslims. **134**

Alongside propaganda, a significant amount of so-called “fake news” has been shared online. Much of this “fake news” is spreading unintentional misinformation reflecting poor digital literacy or a lack of available and trustworthy information. There are also regular reports of attempts, sometimes coordinated, **135** to intentionally spread disinformation. **136** Such attempts are reportedly conducted on Facebook, Viber, and WhatsApp, among other platforms, **137** and are often related to the Rohingya or

other minorities. **138** In one example, thousands of Buddhist users were warned via social media messages of an imminent attack by neighboring Muslims, while Muslim users received similar messages saying Buddhists were about to attack. **139**

Both pro-Rohingya and anti-Rohingya digital activists have spent considerable effort claiming that their opponents are bearers of “fake news.” For example, pro-Rohingya activists have uncovered how photos of young men carrying guns actually originated from the East-West Pakistan conflict in the 1970s, **140** and photos allegedly of Rohingya burning down their own houses are actually Hindus pretending to be Rohingya. **141** Anti-Rohingya activists, backed up by government officials such as government spokesperson Zaw Htay, have demonstrated how in Turkey’s Deputy Prime Minister Mehmet Simsek’s tweet images described as showing military atrocities were actually from other countries. **142**

Digital Activism

Individuals continued to use the internet, particularly Facebook, to conduct activism, some of which has been successful. Some of the most significant activism, both in terms of size and reach, have been in response to the plight of the Rohingya. Pro-Rohingya digital activists have used social media to strengthen networks within the Rohingya community, including with the diaspora, while simultaneously reaching out to other supporters. **143** Social media has been invaluable for sharing videos, photos, and testimonies of sexual violence, looting, torture, and murder, **144** particularly given that domestic media outlets are unwilling to share them. Some activist efforts have been constrained, however, particularly as Facebook has restricted content (see Content Removal).

Several pro-Rohingya digital activists have become notorious within Myanmar and subject to significant vilification from both anti-Rohingya activists and the state media. **145** Anti-Rohingya digital activists have gained similar notoriety and large online followings. **146** While pro-Rohingya activists have primarily focused on documenting the conflict, anti-Rohingya activists have concentrated on publishing reams of old documents of various sources claiming to prove that the Rohingya’s existence and their presence in Rakhine State are historically recent developments.

147

A coalition of civil society groups launched the #SayNOto66d campaign **148** advocating for the repeal of Article 66(d) of the Telecommunications Law, which criminalizes online defamation.

C. Violations of User Rights

Despite the government's partial amendment to Article 66(d) of the Telecommunications Law, criminalization of internet users persisted, including under an additional criminal defamation provision in the newly adopted privacy law. Intimidation of users has also intensified, both from the government's new online surveillance mechanism and increased harassment against those reporting on or discussing the crisis in Rakhine State online.

Legal Environment

The current constitution, drafted by the military government and approved in a flawed 2008 referendum, states that “enhancing the eternal principles of justice, liberty and equality” is one of the country’s six objectives. **149** However, new laws and amendments, and much judicial interpretation, ignore this aim.

The constitution also provides specific – but highly limited – guarantees for citizens to “express and publish their convictions and opinions” **150** and “freely develop literature, culture, arts, customs and traditions” **151** provided that they are “not contrary to the laws enacted for Union [of Myanmar] security, prevalence of law and order, community peace and tranquility, or public order and morality.” **152** Article 357 of the constitution includes a protection for private communications. The constitution includes no provisions directly relating to the internet, surveillance, or access to information, although Article 96 and Schedule 1 (8.m) provide parliament with authority to establish laws regulating the internet.

Several laws explicitly penalize online activity and have been used to imprison internet users. The Telecommunications Law was drafted by the former government in 2013 with the support of the World Bank, **153** and is the primary framework for licensing telecoms providers, including mobile phones and fixed-line connections.

Although the law was welcomed by many stakeholders as a sign of much-needed change, **154** the former government added a number of troubling provisions, including Article 66(d), a broad content provision criminalizing a range of vague acts online, including defamation, and Article 68, which criminalizes “communication, reception, sending, distribution or sharing of incorrect information with dishonest intention.” **155**

Under public pressure about the number of prosecutions for online activity, the NLD government rushed through an amendment to Article 66(d) of the Telecommunications Law in August 2017. However, the amendment was drafted without proper civil society consultation and was roundly condemned as insufficient. **156** Positive changes in the amendment include a reduction of the maximum prison sentence to two years, the opportunity for the accused to be released on bail, and restrictions on who can file a case. However, the amendment still did not define “defamation” and still outlaws “extort[ing], defam[ing], disturb[ing] or intimidat[ing]” over a telecommunication network. **157** Civil society has argued that the amendment has made no discernible impact on the cases brought after the amendment was enacted. **158**

The previous government amended but failed to repeal the 2004 Electronic Transaction Law (ETL) in 2013, which penalized ill-defined online actions, punishing “any act detrimental to” state security, law and order, community peace and tranquility, national solidarity, national economy, or national culture—including “receiving or sending” related information. It was routinely used to criminalize internet activism under the military government. In 2014, Thaung Tin, an MCIT deputy, acknowledged the need to fix repressive laws like the ETL and the Computer Science and Development Law, which criminalizes unauthorized use of a computer with a “fax-modem card.” **159** The MCIT announced plans to revise the ETL, but no developments had been reported as of mid-2018. **160**

Several draft laws and amendments that could affect the internet are in development. For example, the government has shared that it is developing cybercrime laws with support from international experts. **161** A draft copyright law was presented to parliament in July 2017, but has yet to be passed in full. **162** After a

leaked draft law criminalizing “hate speech” received significant criticism from civil society, a new revised version was sent to parliament in September 2017, but has since been sent to the Home Ministry. **163** The government claims that consultations have taken place, **164** however several well-known civil society organizations working on the issue have refuted these assertions and have received no responses to their requests for meetings with parliament. **165** An amendment to the Broadcasting Law is currently going through parliament, and the Myanmar Press Council to the Ministry of Information proposed a draft amendment to the News Media Law. **166** Both laws regulate the media, including their online presence and content. There has been no open public consultation on either media law. **167**

Laws requested by a range of private sector and civil society stakeholders, including on data protection and e-commerce, have yet to be developed. **168**

Prosecutions and Detentions for Online Activities

Prosecution of online users, particularly under the Telecommunications Law, is common in Myanmar’s restrictive online environment. **169** Fair trial rights are often violated in Myanmar’s courts, such as the accused not having effective representation and receiving limited access to court documents, and judges being inattentive during proceedings. **170**

Trials relating to online activity commonly include significant procedural errors, technically unreliable evidence, and deep-seated judicial unwillingness to consult expert testimony. **171** In many cases, courts have been presented with easily-forgeable print-outs of digital content or have ruled without testing the authenticity, reliability, or admissibility of evidence. **172** Other procedural issues include the lack of skills and knowledge among judges, arbitrary use of bail, lack of access to justice for marginalized communities, and the influence and interference from the Ministry of Information. **173**

In September 2018, following the reporting period, Reuters journalists Wa Lone and Kyaw Soe Oo were sentenced to seven years in prison in a politically-motivated trial. They were originally detained on December 12, 2017 while investigating the massacre of 10 Rohingya men and boys. **174** They were charged on December 13 under the

Official Secrets Act and were denied bail in February. In June and July 2018, the journalists' defense lawyers informed the court that they were tortured while in custody (see Intimidation and Violence).

Between 2013 and December 2017, over 100 cases had been brought under the Telecommunications Law Article 66(d), almost all of which were brought under the NLD government. **175** The majority of plaintiffs in the cases were affiliated with the state, including public officials, political party officials, and military officers, while the majority of the accused were activists, online journalists, or other civil society representatives. **176** By December 2017, 20 percent of these cases were decided in court – all with guilty verdicts and six-month jail sentences. **177** A few cases during the reporting period under Article 66(d) include:

- In May 2018, a human rights activist was sentenced to three months in jail under Article 66(d). **178** He was originally arrested in June 2017 for livestreaming a high school play in which his son participated that criticized the military. **179**
- In July 2017, Ko Swe Win, chief correspondent for *Myanmar Now*, was arrested under Section 66(d) for a Facebook post criticizing ultranationalist monk Wirathu. **180** In March 2017, a complaint was filed against the journalist by a supporter of Ma Ba Tha, the Buddhist nationalist group. **181**
- In June 2017, a satirical columnist and the chief editor of *The Voice Daily* were charged under Article 66(d) and under the News Media Law for satirizing the military propaganda film *Union Oath*. In August 2017, Chief Editor Kyaw Min Swe was released from his two months in detention on MMK 10 million (US\$7,350) bail. **182** Charges were later reported to be dismissed against both men. **183**

The newly adopted Law Protecting the Privacy and Security of Citizens, which was widely condemned by civil society as having been passed without proper consultation, **184** has been used to prosecute online activity. In January 2018, Aung Ko Ko Lwin was arrested for Facebook posts criticizing a state chief minister. **185** For example, one post included a video calling viewers to “eat only a dish of curry” in hopes of lowering food prices. Aung Ko Ko Lwin was accused of “spoil[ing] the image of the town” and charged under Article 8(f) of the Law Protecting the Privacy and

Security of Citizens. **186**

Surveillance, Privacy, and Anonymity

The newly established Social Media Monitoring Team (SMMT) is expected to increase the state's surveillance capabilities, while the government has moved to enforce regulations mandating the registration of SIM cards.

The Law Protecting the Privacy and Security of Citizens, passed in March 2017, prohibits intrusion on communication data, except based on permission, orders, or warrants provided under other unspecified laws. **187** The law does not outline clear procedures to prevent data being collected and stored, nor provides for judicial review. Critics argue that the law's definition of privacy is inadequate and inconsistent with international human rights standards. **188**

The Telecommunication Law grants the government the power to direct unspecified persons "to secure any information or communication which may harm security, rule of law, or peace of the state." **189** The subsequent provision that any interception should not "hurt the fundamental rights of citizens" is an inadequate safeguard against abuse. **190** The Telecommunications Law also grants the government the power to assign a broad range of persons to "enter and inspect, supervise or have documents produced" to and by telecoms license holders for the ambiguous purposes of defending the "security of the state or for the benefit of the people," without any safeguards against abuse. **191** A 2018 amendment to the Narcotic Drugs and Psychotropic Substances Law includes a new provision requiring telecommunications providers to disclose user information without due process. **192** There are no requirements for judicial review.

There are few restrictions on anonymous internet use, though the NLD government enforced the registration of SIM cards in 2017. **193** Under this requirement, subscribers must provide their name, ID, birth date, address, nationality, and gender in order to register for a SIM card. **194** As of August 2017, the Ministry of Transport and Communications reportedly suspended six million unregistered SIM cards. **195**

In February 2018, the president's office ordered and the parliament approved,

without prior consultation, the creation of the SMMT, which was later established under the Ministry of Transport and Communications. **196** The government originally said that the SMMT is necessary to target those causing instability online, including “hate speech” and defamation. **197** Public statements have since clarified that the SMMT’s mandate is narrowly focused on targeting foreigners and foreign organizations that “interfere” with, “incite unrest,” and infringe on the country’s sovereignty. **198** It has been suggested, given Myanmar’s broader political context, that the SMMT was established to provide surveillance on foreign activists (which include activists from Myanmar who lack citizenship status), foreign media outlets, and international organizations communicating on issues relating to the Rohingya, and, to a lesser extent, the other conflicts inside the country, as well as the growing campaigns for justice such as the ICC.

The SMMT was immediately and widely criticized by civil society as an unworkable system of state surveillance. **199** Despite criticism, the SMMT was awarded an initial grant of approximately US\$4.8 million, **200** which it has reportedly used to purchase surveillance technology. **201** The scale and automation of the purchased technology is unclear, **202** and the government has refused, using security justifications, to reveal from which country the equipment was bought. **203** No information has been shared regarding the SMMT’s powers and responsibilities, relationship with law enforcement and the courts, and any potential safeguards such as independent judicial oversight.

Telecommunications operators are reluctant to publicize the number of requests for data they receive from authorities. **204** Some publicly available figures suggest a decrease in requests but an increase in fulfilment of those requests. **205** One major provider stated that it initially required three documents before disclosing information, including a letter from a senior police officer and a letter from the PTD, but has in practice dropped this requirement for a court warrant. **206**

The police continue to confiscate without warrant the mobile phones of those facing allegations of online criminal activity, particularly human rights defenders, political activists, and journalists. **207** Police reportedly demand passwords for social media accounts and other applications, including in criminal cases where allegations have no relation to social media use. **208** For example, shortly after Wa Lone and Kyaw Soe

Oo were arrested (see Prosecutions and Detentions for Online Activity), police were accused of using Wa Lone's confiscated phone to send a WhatsApp message on his account. **209** The incident also raised concerns about police accessing the journalists' social media accounts.

Intimidation and Violence

Online journalists, human rights defenders, and political activists continue to report intimidation and threats of violence, with at least one attempted murder during the reporting period and another journalist fleeing the country. In one opinion survey published in May 2018, most journalists reported their belief that violence had increased over the past year. **210** Violence and threats of violence were particularly common for journalists and activists reporting in conflict areas or communicating online about sensitive political issues including the Rohingya crisis. **211**

Journalists inside Rakhine State, where the majority of atrocities against the Rohingya have occurred, feel particularly targeted. **212** In December, Kyaw Lin, a journalist in Rakhine State who contributes to DVB and is the editor-in-chief of the local outlet *ROMA Time*, was stabbed by two people driving past him on a motorbike. **213** Esther Htusan, an *Associated Press* journalist whose content on the Rohingya and Rakhine conflict is available only online inside Myanmar, left the country following significant threats of violence, including death threats on Facebook. **214**

During the trial of Reuters journalists Wa Lone and Kyaw Soe Oo, defense lawyers informed the court that the journalists were tortured in detention. **215** On July 24, Kyaw Soe Oo told the court that he was subjected to sleep deprivation and forced to kneel for hours during interrogation. **216** He also shared that a black hood covered his head.

Human rights defenders also face intimidation and violence. The scale and volume of threats against human rights defenders, all of whom use the internet as their principal tool for advocacy, varies depending on the "sensitivity" of the issue. Pro-Rohingya and peace activists report some of the most significant and constant intimidation via direct and indirect messages and comments online. **217**

In Myanmar, high-profile women and women human rights defenders report regular gender-based intimidation and threats of violence. **218** Common tactics of harassment include cyber-stalking, phishing, hacking, and attempts to cast doubts on women’s credibility, integrity, and character. Many are threatened or intimidated with the distribution of knowingly false information, such as doctored sexual or intimate images, sometimes followed by blackmail or extortion.

A significant number of people in Myanmar have reported experiencing cyber-bullying, particularly those from marginalized groups including young women, religious minorities, and the LGBTI community. **219** Another repeated form of intimidation is phone technicians and intimate partners stealing data from mobile phones, including images and intimate information, and using it to extort or blackmail. **220**

Technical Attacks

Websites, Facebook accounts, and email are periodically subject to technical attacks in Myanmar. In August and September 2017, websites for the Myanmar government’s ministry of culture, central bank, and Maubin University, plus private webpages, were defaced with messages saying “stop killing Muslims.” **221** The hacks were allegedly carried out by Turkish activists raising their concerns about the treatment of the Rohingya. **222** In response, a domestic group called the “Union of Underground Myanmar Hackers” claimed to have taken retaliatory steps against the Turkish government, attacking hundreds of Turkish websites. **223** Meanwhile, hackers from Bangladesh and Indonesia claimed to have hacked the websites of the president and the Ministry of Information, among others, also motivated by violence against the Rohingya. **224**

Human rights defenders, journalists, and political activists continue to report regular, often weekly, remote attempts to hack their email and Facebook accounts. **225** Pro-Rohingya and Muslim activists are among those who report constant hacking attempts. **226** Other human rights defenders, journalists, and political activists report the use of spyware installed on their mobile phones. **227**

Microsoft has raised concerns about the comparatively high proportion of

computers and devices in Myanmar that are infected by viruses and malware. **228** Over 22 percent of computers in Myanmar are infected, compared to 8 percent globally. **229** Of those infections, 19 percent are Trojans, with one particular Trojan infecting three percent of computers in Myanmar alone. Microsoft has also raised concerns about the number of infections of the worm “Win/Macoute” that spreads itself to USB drives, which are very common in Myanmar, and communicate the drive’s content to a remote host. **230**

Footnotes

- 1 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22041...>
- 2 <https://www.ohchr.org/EN/HRBodies/HRC/MyanmarFFM/Pages/ReportoftheMyanm...>
- 3 <https://www.nytimes.com/2018/10/15/technology/myanmar-facebook-genocide...>
- 4 <https://www.reuters.com/investigates/special-report/myanmar-rakhine-eve...>
- 5 The number of internet users was reported in 2017 as 13.75m, 13.44m, and 13.46m by Internet World Stats, ITU, and the CIA World Factbook respectively. A report on Myanmar in 2018 by Hootsuite identified that this number had grown to 18m users by the beginning of 2018, see <https://hootsuite.com/pages/digital-in-2018>, 34 percent of the population and a growth of 4m persons over the course of the year.

More footnotes



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Country Facts

Global Freedom Score

9/100 Not Free

Internet Freedom Score

12/100 Not Free

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1850 M St. NW Floor 11
Washington, DC 20036
(202) 296-5101

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info@freedomhouse.org

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press@freedomhouse.org

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